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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re

ADAM WEISBERGER and
KAY WEISBERGER,

Debtors.

Chapter 13

Case No. 17-35023-KCF

Judge Kathryn C. Ferguson

Hearing Date: September 12, 2018

Hearing Time: 10:00 a.m.

**LIMITED OBJECTION OF INTERNAL REVENUE SERVICE TO
CONFIRMATION OF DEBTORS' CHAPTER 13 PLAN**

**ATTENTION DEBTORS' COUNSEL:
FOR THE REASONS STATED HEREIN, THE PROPOSED CHAPTER 13 PLAN
IS FACIALLY UNCONFIRMABLE. TO THE EXTENT NO WRITTEN
RESPONSE TO THIS OBJECTION IS FILED AND NO ADJOURNMENT IS
OBTAINED, COUNSEL FOR THE UNITED STATES WILL NOT BE
APPEARING AT THE SCHEDULED HEARING ON THIS MATTER AND WILL
INSTEAD RELY ON THIS WRITTEN OBJECTION.**

THE UNITED STATES OF AMERICA, on behalf of the Internal Revenue Service (the "Service"), submits the following limited objection to confirmation of the above-captioned debtor's Modified Chapter 13 Plan (the "Plan") [ECF Doc No. 4]. In

support thereof, the Service respectfully represents as follows:

OBJECTION

A. The Plan is Not Confirmable with Respect to the Service's Secured Claim

1. With respect to the Service's Secured Claim of \$41,741.88 (which is calculated based on the value of the Debtors' scheduled *personal* property), *see* Claim No. 1, the Plan fails to comply with the provisions of Bankruptcy Code section 1325(a)(5), which requires, *inter alia*, that a Chapter 13 Plan provide for full payment post-confirmation interest. 11 U.S.C. § 1325(a)(5). Specifically, the Plan fails to provide for separate classification and payment of the Secured Claim. *See* Plan, Part 4. Instead, the Plan lists the Debtors' entire debt to the Service as an unsecured priority claim. *Id.* Part 3. To correct this defect, the Secured Claim must be separately classified from the Service's Priority Claim and the correct rate of post-confirmation interest (5%) should be used. 11 U.S.C. § 511(a)-(b).

CONCLUSION

WHEREFORE, for the foregoing reasons, the Service requests that the Court (i) deny confirmation of the Plan until such time as the above-referenced defects in the Plan are cured; and (ii) grant any other and further relief that the Court deems just and proper.

Dated: September 4, 2018

CRAIG CARPENITO
United States Attorney

/s/ Eamonn O'Hagan

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Assistant U.S. Attorney

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